



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

January 5, 2022

Via Emailed PDF

Alexandra Wilson
Sullivan & Barros, LLP
1155 15th Street, NW, Suite 1003
Washington, DC 20005

Re: 2134 Wisconsin Ave., NW (Square 1300, Lot 323)

Dear Ms. Wilson:

This letter confirms the discussion you had with zoning technician David Vollen on September 15, 2021, regarding a proposed project at the property located at 2134 Wisconsin Ave., NW (the “**Property**”). The Subject Property is currently improved with a three-story row building (the “**Building**”). You are proposing to construct an addition (the “**Addition**”) to the property, and convert the expanded building into a nine (9) unit multi-family residential use (the “**Project**”). The Property is located in the MU-27 Zone. You have asked my office for a general review of the project and applicable development standards, as well as a request for minor deviation from the lot occupancy requirements as described herein.

While you have not provided a topographical survey, you have indicated that you correctly measured the BHMP and grade at front and rear for purposes of calculating building height and FAR. You have also indicated that the proposed plans comply with the height based on your measurements, as well as the FAR. Therefore, I will review with the understanding that my office has not done these measurements based on a topographical survey, but rather confirmed the FAR and height measurements based on plans noting the BHMP and elevations.

Floor Area Ratio [FAR]

Pursuant to G § 802.1, the maximum permitted FAR in the MU-27 zone is 2.5, with 1.5 FAR for nonresidential use. The Property has a lot area of 2,413 square feet which would permit a total gross floor area of 6,032.5 square feet. As this is an attached building, the grade-plane method is used to measure the FAR for the lowest level of the building. The areaways at the front and rear of the buildings are considered exceptions to grade for purposes of measuring FAR as they are limited to five feet (5 ft.). Section B-100.1 allows exceptions to the “Finished Grade” and “Natural Grade” for an areaway that provides direct access to an entrance and,

excluding associated stairs or ramps, projects no more than five feet (5 ft.) from the building face. Based on the plans, and the calculations you have provided, I have determined that the proposed Project does not exceed the 2.5 FAR limit as it is limited to 6,032 square feet.

Lot Occupancy

Pursuant to G § 804, the maximum lot occupancy in the MU-27 zone is 60%. According to the plans, the overall lot occupancy is 62%. You have therefore requested a minor deviation.

Pursuant to 11-A DCMR § 304.2 of the 2016 Zoning Regulations, the Zoning Administrator is authorized to permit a deviation not to exceed two percent (2%) of the maximum percentage of lot occupancy, provided that the deviation will not impair the purpose of the otherwise applicable regulations. The maximum permitted lot occupancy in the MU-27 Zone is sixty percent (60%). In this case, you are proposing to increase the lot occupancy to sixty-two percent (62%), which does not exceed two percent (2%) of the maximum percentage of lot occupancy. The deviation will result in approximately 48 additional square feet of building area—or approximately 2 feet and 4 inches of additional building length at the rear.

In accordance with 11-A DCMR § 304.3, I have considered the following issues in determining that the deviation would not impair the purpose of the otherwise applicable regulations:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of neighboring properties shall not be unduly compromised;
- (c) The level of noise in the neighborhood shall not be unduly increased;
- (d) The use and enjoyment of neighboring properties shall not be unduly compromised;
- (e) No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and
- (f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of [the Zoning Regulations].

I have determined that the proposed deviation meets the above requirements, principally for the following reasons:

- (a) Providing a lot occupancy of sixty-two percent (62%) instead of sixty percent (60%), would not unduly affect the light and air available to the neighboring

properties. The additional two percent (2%) is being requested to allow for only an additional 48 square feet of building area and 2 feet and 4 inches of building length at the rear of the building. Accordingly, I have determined the size and scale of the building would likely be no different if the deviation was granted.

(b) As noted in the above paragraph, the overall scale and size of the proposed building would not change if the deviation was granted. The additional two percent (2%) is being requested to allow for only an additional 48 square feet of building area and 2 feet and 4 inches of building length at the rear of the building. The building will have a compliant rear yard is within the permitted forty-foot (40 ft.) height limit in this zone. Accordingly, I have determined that the privacy of neighboring properties shall not be unduly compromised.

(c) The additional two percent (2%) is being requested to allow for only an additional 48 square feet of building area and 2 feet and 4 inches of building length at the rear of the building and will not increase the overall density. For this reason, the level of noise in the neighborhood shall not be unduly increased.

(d) The additional two percent (2%) is being requested to allow for only an additional 48 square feet of building area and 2 feet and 4 inches of building length at the rear of the building and does not increase the overall density. For this reason, the use and enjoyment of neighboring properties shall not be unduly compromised.

(e) No trees will be damaged or removed as a result of this minor deviation.

(f) The additional two percent (2%) is being requested to allow for only an additional 48 square feet of building area and 2 feet and 4 inches of building length at the rear of the building. Therefore, the general scale and pattern of buildings on the subject street frontage will be maintained consistent with the development standards of the zoning regulations.

For these reasons, granting a minor deviation to allow for sixty-two percent (62%) lot occupancy will not impair the purpose of the otherwise applicable regulations, as evidenced by the compliance of this deviation with the specific guidelines for deviations under the 2016 Zoning Regulations. Therefore, my determination is to permit the requested deviation from maximum lot occupancy.

Accordingly, the project meets the lot occupancy requirements of the MU-27 zone.

Rear Yard

Pursuant to G § 805.1, the MU-27 zone has a minimum rear yard requirement of 15 feet. Where a property does not abut an alley, the rear yard is measured from the rear lot line to the rear wall of the building or structure. Further, a rear yard may be measured by establishing a horizontal plane 25 feet above the mean finished grade at the middle of the rear of the structure. According to the plans, the rear yard

dimension is well over fifteen feet (15 ft.). Accordingly, the project meets the rear yard requirements of the MU-27 zone.

Side Yard

Pursuant to G § 806.1, the MU-27 zone a side yard is not required for a [principal building](#) other than a detached single [dwelling unit](#) or semi-detached single dwelling unit. As the building is not a detached or semi-detached single dwelling unit, no side yard is required.

Height

Pursuant to G § 803.1, the maximum height in the MU-27 zone is 40 feet. The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet. The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the [lot](#) from its front line to its rear lot line.

According to the plans, the proposed expanded building will be four stories plus a penthouse over a cellar level, with an overall building height is limited to 40 feet. Accordingly, the project meets the height requirements of the MU-27 zone.

Penthouse Setbacks

You are proposing a penthouse level. Pursuant to G § 803.2, the maximum permitted height of a penthouse in the MU-27 zone shall be 12 feet, except mechanical penthouses are permitted 15 feet in height, and the maximum number of stories within the penthouse shall be one (1). Pursuant to C § 1502.1, the penthouse and any other roof structures such as guardrails must be set back a distance equal to their respective heights from the front and rear of the Property, as well as any sides bordering an open court. Structures are also required to have a ½:1 setback from any side of the building not adjoining another building. As the building adjoins a building on each side, no side setbacks are required.

According to the plans, you are proposing penthouse habitable space ancillary to a roof deck. The penthouse has a height of ten feet (10 ft.) and will be set back eleven feet (11 ft.) from the front and rear of the Building.

Accordingly, the Project meets the penthouse setbacks of the MU-27 Zone.

Penthouse Use

Pursuant to subtitle G § 803.3, “a [penthouse](#) permitted by this section shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the [building](#) roof area dedicated to rooftop deck, terrace, or recreation space.”

The proposed penthouse space is considered ancillary space to an adjacent rooftop deck as it holds no sleeping quarters and is used to access the rooftop space directly adjacent, thus meeting the definition of ancillary. The total rooftop area is 700

square feet as noted on the plans, and the total penthouse space is limited to 140 square feet (20% of 700 square feet). Accordingly, the penthouse use is permitted as a matter-of-right in this zone and it complies with the penthouse use restrictions of the MU-27 zone.

Penthouse Fee

As you are proposing new habitable space, you are subject to Inclusionary Zoning for the penthouse area. You have indicated that you will pay into the Housing Production Trust Fund to satisfy the IZ requirement. Based on a land area of 2,413 square feet, a land value of \$567,101, a maximum permitted FAR of 2.5, and a total penthouse GFA of 140 square feet, your total penthouse fee is \$6,580.53, half of which must be paid prior to issuance of the building permit and half of which must be paid prior to the issuance of the C of O. A calculation sheet has been included with this letter.

Parking

Pursuant to C § 701.5, a multi-family building is required to provide one space for every three units over four units. Accordingly, a nine-unit building is required to provide two spaces. However, pursuant to C § 702.1, within any [zone](#) other than an R or RF zone, the minimum vehicle parking requirement shall be reduced by fifty percent (50%) for any site which is located within 0.25 miles of a priority MetroBus Route.

You are located within 0.25 miles of Route 31 on Wisconsin Avenue, which is considered a priority MetroBus Route. Accordingly, the parking requirement is only one space. Regardless, you are proposing two compact parking spaces. Pursuant to C § 712.3(c) Subject to paragraph (f), when two (2) or fewer spaces are required, they may meet or exceed the compact-sized dimensions. The spaces will be properly screened pursuant to C § 714.

Parking Access

The parking is located at the rear of the Property. Pursuant to C § 711.3, all parking spaces shall be accessed from a driveway accessing either: (a) an improved street; or (b) an improved alley or alley system within a minimum width of ten feet (10 ft.). The rear parking is accessed via an easement. The easement, included as an attachment to this letter, allows for access through a driveway off of W place, NW (to the north of the property), onto a private parking area and into the subject property (See page 12 for specific metes and bounds description). I have determined that a private easement meeting the criteria of C § 711.3 is sufficient to satisfy the access requirements. In this case, the easement meets the criteria and therefore the parking access complies.

Bicycle Parking

Pursuant to C § 802.1, a multi-family residential building is required to have 1 long-term bike parking space for every 3 dwelling units. Accordingly, you are required to

provide 3 long-term bicycle parking spaces. The plans show a bicycle room in the cellar with four bicycle spaces meeting the size and layout requirements of C § 805.

Green Area Ratio

Pursuant to G § 807.1, the minimum required [GAR](#) for the MU-27 [zone](#) shall be 0.3. You have indicated that you will meet the GAR requirements.

Please feel free to contact me if you have any questions.

Sincerely, Matthew Le Grant
Matthew Le Grant
Zoning Administrator

Attachments: Zoning Analysis 9-24-21
Plan Set – 9-24-21
Penthouse Calculation worksheet
Right of way and access easement 3-3-86

Zoning Technician: David Vollin

DISCLAIMER: This letter is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a "final writing", as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator's review. Therefore this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

File: Det Let re 2134 Wisconsin Ave NW to Wilson 1-5-22